

Application No. 09/094,539  
Amendment "F" dated September 7, 2004  
Reply to Office Action mailed June 4, 2004

### REMARKS

The latest Office Action, mailed June 4, 2004, considered and rejected each of the pending claims (1-13) under 35 U.S.C. § 103(a), at least in part, based on Hyder (U.S. Patent No. 6,253,255).<sup>1</sup> Hyder, in fact, was cited as the primary reference for each of the rejections. However, Hyder does not represent a prior art reference that can be used to reject the pending claims for obviousness under Section 103(a) for at least the following reasons.

35 U.S.C. § 103(c) specifies that a patent reference that otherwise qualifies as prior art under Section 102(e) does not preclude patentability of claims under Section 103(a) if the patent reference and the patent application that includes the claims were commonly owned at the time the claimed invention was made. In this case, Hyder qualifies as prior art under Section 102(e) inasmuch as Hyder issued on June 26, 2001 and the present application was filed on June 12, 1998.

Hyder and the subject matter of the claimed invention were also commonly owned by Microsoft Corporation at the time the claimed invention was made. In particular, Hyder is assigned to Microsoft Corporation, the applicant of the present application, and has been since Oct. 22, 1997, as recorded on Reel 8779 and Frame 0519, attached as Exhibit A.

Thus, Hyder qualifies as prior art as 102(e) art and was commonly assigned to Microsoft Corporation at the time the present invention was made. Accordingly, Hyder does not represent a prior art reference that can be applied to reject the claims under Section 103(a). In view of the foregoing, the rejections made in the last action are rendered moot and, therefore, all of the pending claims 1-13 are in condition for allowance.

Applicants further suggest that inasmuch as this amendment is responsive to a sixth action in this case, that the Examiner has had extensive opportunity to search the relevant art. Accordingly, unless some newly issued art is discovered that has issued since the last action, Applicants suggest that the claims should now be found allowable over all other existing art in the Examiner's field(s) of search.

---

<sup>1</sup> The merits of the rejections made in view of Hyder and the other cited art is not addressed herein, inasmuch as the rejections are now moot. Silence regarding the specific rejections and art, however, should not be construed as acquiescing to any prior art status or purported teaching suggested in the last action. To the contrary, Applicants reserve the right to challenge the teachings and prior art status regarding any of the cited art at any appropriate time in the future, should it arise.

Application No. 09/094,539  
Amendment "I" dated September 7, 2004  
Reply to Office Action mailed June 4, 2004

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 7 day of September 2004.

Respectfully submitted,



RICK D. NYDEGGER  
Registration No. 28,651  
JENS C. JENKINS  
Registration No. 44,803  
Attorneys for Applicant

Customer No. 022913

RDN:JCJ:cm  
WA13768\73\CM0000004069V001.DOC

# **EXHIBIT A**



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**  
 ASSISTANT SECRETARY AND COMMISSIONER  
 OF PATENTS AND TRADEMARKS  
 Washington, D.C. 20231

DECEMBER 16, 1997

PTAS

WORKMAN, NYDEGGER & SEELEY  
 RICK D. NYDEGGER  
 1000 EAGLE GATE TOWER  
 60 EAST SOUTH TEMPLE  
 SALT LAKE CITY, UTAH 84111



**UNITED STATES PATENT AND TRADEMARK OFFICE**  
**NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT**

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, NORTH TOWER BUILDING, SUITE 10C35, WASHINGTON, D.C. 20231.

RECORDATION DATE: 10/22/1997

REEL/FRAME: 8779/0519  
 NUMBER OF PAGES: 3

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:  
 HYDER, JAMEEL

DOC DATE: 05/08/1997

ASSIGNOR:  
 BRANDON, KYLE

DOC DATE: 05/08/1997

ASSIGNEE:  
 MICROSOFT CORPORATION  
 ONE MICROSOFT CORPORATION  
 REDMOND, WASHINGTON 98052-6399

SERIAL NUMBER: 08852937  
 PATENT NUMBER:

FILING DATE: 05/08/1997  
 ISSUE DATE:

JEEVON JONES, EXAMINER  
 ASSIGNMENT DIVISION  
 OFFICE OF PUBLIC RECORDS

FORM PTO-1595 (Rev. 6-93)		11-10-1997		U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office	
OMB No. 0651-0011 (exp. 4/94)		100566274			
Tab settings: 000 ▾		To the Honorable Commissioner of P		▽ ▾ ▾	
1. Name of conveying party(ies): Jameel Hader and Kyle Brandon 10-22-97 Additional name(s) of conveying party(ies) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		2. Name and address of receiving party(ies) Name: <u>Microsoft Corporation</u> Internal Address: <u>One Microsoft Corporation</u> <u>Redmond, Washington 98052-6399</u> Street Address: _____ City: _____ State: _____ ZIP: _____ Additional name(s) & address(es) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
3. Nature of conveyance: <input checked="" type="checkbox"/> Assignment <input type="checkbox"/> Merger <input type="checkbox"/> Security Agreement <input type="checkbox"/> Change of Name <input type="checkbox"/> Other _____ Execution Date: <u>May 8, 1997</u>					
4. Application number(s) or patent number(s): If this document is being filed together with a new application, the execution date of the application is: _____ A. Patent Application No.(s) <u>08/852,937</u> B. Patent No.(s) _____ Additional numbers attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
5. Name and address of party to whom correspondence concerning document should be mailed: Name: <u>Rick D. Nydegger</u> Internal Address: <u>Workman, Nydegger, &amp; Seeley</u> <u>1000 Eagle Gate Tower</u> <u>60 East South Temple</u> <u>Salt Lake City, Utah 84111</u> Street Address: _____ City: _____ State: _____ ZIP: _____		6. Total number of applications and patents involved: <u>1</u> 7. Total fee (37 CFR 3.41).....\$ <u>170.00</u> <input checked="" type="checkbox"/> Enclosed <input checked="" type="checkbox"/> Authorized to be charged to deposit account 8. Deposit account number: <u>23-3178</u> (Attach duplicate copy of this page if paying by deposit account)			
9. Statement and signature. To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document. <u>Jeffrey L. Ranck</u> Name of Person Signing <u>Jeffrey L. Ranck</u> Signature Total number of pages including cover sheet, attachments, and document: <u>3</u> Date: <u>22 Oct. 1997</u>					

WHEN RECORDED RETURN TO:

Workman, Nydegger & Seeley  
1000 Eagle Gate Tower  
60 East South Temple  
Salt Lake City, Utah 84111

PATENT APPLICATION  
Docket No: 13768.37

### ASSIGNMENT

WHEREAS, we, Jameel Hyder and Kyle Brandon (hereinafter referred to as ASSIGNORS), having post office addresses of 23292 NE 16th Place, Redmond, WA 98053 and 1106 18th Avenue, Seattle, WA 98122, respectively, are the joint inventors of an invention entitled "METHOD, COMPUTER PROGRAM PRODUCT, AND DATA STRUCTURE FOR ASSOCIATING CONTROL INFORMATION WITH PACKETIZED NETWORK DATA," as described and claimed in the specification forming part of an application for United States letters patent executed herewith;

WHEREAS, Microsoft (hereinafter referred to as ASSIGNEE), a corporation of the State of Washington having a place of business at One Microsoft Way, Redmond, WA 98052, is desirous of acquiring the entire right, title, and interest in and to the invention and in and to any letters patent that may be granted therefor in the United States and in any and all foreign countries;

NOW, THEREFORE, in exchange for good and valuable consideration, the receipt of which is hereby acknowledged, ASSIGNORS hereby sell, assign, and transfer unto said ASSIGNEE, the entire right, title, and interest in and to said invention, said application and any and all letter patent which may be granted for said invention in the United States of America and its territorial possessions and in any and all foreign countries, and in any and all divisions, reissues, and continuations thereof, including the right to file foreign applications directly in the name of ASSIGNEE and to claim priority rights deriving from said United States application to which said foreign applications are entitled by virtue of international convention, treaty, or otherwise, said invention, application, and all letters patent on said invention to be held and enjoyed by ASSIGNEE and its successors and assigns for their use and benefit and of their successors and assigns as fully and entirely as the same would have been held and enjoyed by ASSIGNORS had this assignment, transfer, and sale not been made. ASSIGNORS hereby authorize and request the Commissioner of Patents and Trademarks to issue all letters patent on said invention to ASSIGNEE. ASSIGNORS agree to execute all instruments and documents required for the making and prosecution of applications for United States and foreign letters patent on said invention, for litigation regarding said letters patent, or for the purpose of protecting title to said invention or letters patent therefor.

Dated this 21 day of May, 1997.

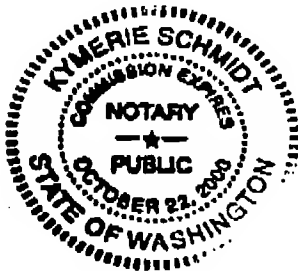
Jameel Hyder Jameel

STATE OF WASHINGTON )

COUNTY OF KING )

: SS.

On May 21, 1997 before me personally appeared Jameel Hyder, known to me to be the person described and who signed the foregoing Assignment in my presence and acknowledged under oath before me that he/she has read the same and know the contents thereof and that he/she executed the same as his/her free act and deed and for the purposes set forth therein.



Kymerie Schmidt  
NOTARY PUBLIC

Residing at

My Commission Expires:

Seattle, WA

Oct. 22, 2000

Kyle Brandon

STATE OF WASHINGTON )

COUNTY OF KING )

: SS.

On May 21, 1997 before me personally appeared Kyle Brandon, known to me to be the person described and who signed the foregoing Assignment in my presence and acknowledged under oath before me that he/she has read the same and know the contents thereof and that he/she executed the same as his/her free act and deed and for the purposes set forth therein.



Kymerie Schmidt  
NOTARY PUBLIC

Residing at

My Commission Expires:

Seattle, WA

Oct. 22, 2000